Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996	)	DOCKET FILE COPY ORIGINAL
	)	
Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers	)	CC Docket No. 94-129

REPLIES OF U S WEST COMMUNICATIONS, INC.
TO COMMENTS IN SUPPORT/OPPOSITION TO
PETITIONS FOR RECONSIDERATION AND/OR CLARIFICATION

I. INTRODUCTION AND SUMMARY

U S WEST Communications, Inc. ("U S WEST") obviously supports those who commented either favorably on the issues we supported or in opposition to those issues we believe need to be changed.[1] In this reply, U S WEST limits itself to responding to four items:

[1] For example, consistent with our own June 23 filing (see Support/Opposition of U S WEST Communications, Inc. To Petitions For Reconsideration And/Or Clarification, filed herein June 23, 1999 at 3-6) we support the comments of AT&T at 2, 3-7; C&W at 5-8; Qwest at 2-6; GTE at 2-4; MCI at 4-11; that the Commission must reverse its position on customer absolution. Such absolution is contrary to Congressional intent, the statutory language of Section 258 and sound customer and telecommunications policy. And, we oppose those seeking to extend or expand on any "absolution right." See, e.g., NASUCA at 2-5, 6-8. And see Sprint at 6 (opposing the NASUCA proposal).

Similarly, again consistent with our earlier filing, we clearly agree with those who oppose those filing parties and commentors arguing that carriers should be able to submit requests for or participate in the process of PIC freeze implementation. See Ameritech at 2-4; Bell Atlantic, generally; GTE at 6-8; NTCA at 2-4; Rural LECs, generally; SBC at 7-8.

But see Ameritech at 3, n.5. U S WEST **disagrees with the Ameritech suggestion** that it is somehow intuitively or inherently or logically appropriate that a LEC accept a written Letter of Authorization ("LOA") from a carrier as a precipitating event for the establishment or deletion of

(1) The argument by AT&T in its Petition for Reconsideration or, in the Alternative, for Clarification ("PFR/PFC"), and the comments filed in opposition to that argument, that local exchange carriers ("LEC") should be required to verify initial customer decisions about their carrier of choice as opposed to confining any verification obligations to **changes** in carrier decisions; (2) the matter of stale LOAs and time limits; (3) the notion that rights/obligations negotiated by competent parties are abrogated by Commission rules not in direct conflict with the practices incorporated in the contract; and, (4) the suggestion by MCI that Loss Reports, which include codes explaining the reason for the customer loss, somehow violate Section 222 and are unprecedented in the telecommunications industry. Both positions are incorrect.

II. SPECIFIC ITEMS OF RESPONSIVE COMMENT

A. Verifications Required Of Carrier Changes And/Or New Service Carrier Decisions

U S WEST supports those opposing AT&T's argument -- devoid of any support either in the language of Section 258 or the Commission's Slamming Order -- that verifications should be required in those cases where a customer initially establishes service with a carrier (i.e., those circumstances where a customer is required "to make an initial selection of preferred carriers for both interLATA and intraLATA toll services when . . . newly-installed lines are placed in service.").[2] When a "new line" is activated, no carrier "change" is involved. For that reason, a

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a PIC freeze. The history of "written" customer LOAs is far from stellar. Indeed, most of the Commission's fine/forfeiture Orders involve forged LOAs. U S WEST does not allow carriers to institute or remove PIC freezes through any customer "agency" mechanism, including LOAs. We are not set up to accept carrier LOA documents generally, either from carriers or customers. Thus, from an administrative as well as a policy perspective, we urge the Commission to refrain from insinuating any non-personal component into the process of implementing or removing PIC freezes.

[2] AT&T PFR/PFC at 24.

LEC taking an order from a customer who chooses the LEC as the intraLATA (or in the future interLATA) carrier would not be required to verify the transaction.

We support those opposing AT&T's request for reconsideration of this matter.[3] As those commenting on the proposal point out, the statutory language clearly applies to customers' decisions about carrier "changes," not carrier decisions or choices in general. Furthermore, there is no evidence of LECs' business offices being guilty of "slamming" in their implementation of customer directives about their initial choice(s) of carrier. Unless or until such evidence proves that the taking of orders regarding initial carrier selections actually results in unauthorized carrier selections, the Commission should certainly not accept AT&T's request to "clarify" otherwise clear statutory and Order language.

B. Stale LOAs And Time Limits

U S WEST supported the SBC proposal that there be some time limit imposed on the ability of carriers to rely on LOAs for customer authorization for carrier changes.[4] The only party commenting on this issue other than U S WEST was C&W, who opposed any time limitations on LOAs.[5]

C&W's primary argument in support of its position was that the processing of a carrier change took some time in those cases where the customer had a freeze in place. Of course, the number of customers with freezes in place is but a small fraction of customers affected by carrier changes. And, even this concern seems to be capable of accommodation by merely increasing

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[3] Those opposing AT&T's argument include GTE at 4-6, Sprint at 8, SBC at 11-12. TRA at 8-10 supports AT&T.

[4] U S WEST at 13, commenting on SBC Petition for Reconsideration and for Clarification ("PFR/PFC"), filed herein Mar. 18, 1999 at 11-13.

the time in which an LOA would be considered durable, rather than stale. For example, the SBC proposal would only render an LOA durable for 30 days after its execution. In our comments, we suggested a 60-day time period.[6] Perhaps 90 days might also be reasonable. Beyond that, however, often the time frames involved are such that the transaction was engaged in and the document executed too far in the past for individuals to remember its taking place.

It would not necessarily be the case that it would be a "slam" for a carrier to submit a stale LOA a day or two (or even a week) late. If no customer or carrier complained, then "no harm, no foul." But LOAs that are submitted six months to two years after they are executed create serious problems for both customers and carriers alike. Customers cannot remember what actions might have been taken and executing carriers bear the brunt of the irritation.

There is nothing special about a carrier LOA that suggests it should last forever. Just as with checks,[7] these documents -- which are capable of affecting commercial relationships and billing amounts -- should have a time when they are operational and a time, after which, they no longer necessarily are.

C. Billing And Collections Contracts And The Commission's Slamming Rules

Two parties, MCI and Qwest, argue that the current billing contracts between IXCs and LECs -- contracts freely negotiated between competent parties with commercial savvy --

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[5] C&W at 11-12.

[6] U S WEST at 13.

[7] Compare Uniform Commercial Code Section 3-304. "An instrument payable on demand becomes overdue at the earliest of the following times: . . . (2) if the instrument is a check, 90 days after its date; or (3) if the instrument is not a check, when the instrument has been outstanding for a period of time after its date which is unreasonably long under the circumstances of the particular case in light of the nature of the instrument and usage of the trade."

interfere with the Commission's slamming rules in a manner that requires their abrogation.[8] In MCI's case, this argument is presented as one buttressing the need for a Third Party Administrator ("TPA") to "remove the control that [independent LECs] have today over the customer crediting and recourse process in the majority of cases where the ILEC is the billing agent for the long distance carrier."[9]

MCI, of course, does not spend much ink on the fact that the recoursing and crediting practices currently in place have been negotiated. Those practices accommodate various carrier interests (i.e., interexchange carrier ("IXC") interests in being in the LEC bill; LECs interests in keeping the end-user recipient of the bill satisfied, protecting the LEC's goodwill and reputation, and structuring the financial aspects of the relationship so that the LECs do not take it in the shorts for IXC uncollectibles) in an exceedingly pro-consumer, commercially reasonable way.

If IXCs are opposed to these practices, or deem them inconsistent with where they want to end up with the voluntary TPA, their recourse is to approach the LECs to seek to renegotiate their rights -- not whine to this Commission about the bad bargain they have struck. In any event, this venue is not the appropriate one to address the matter. Given the level of detail in which MCI invites the Commission to become involved, one would almost believe that MCI was attempting to secure some type of "pre-judgment" of the particulars of the IXCs' TPA proposal through the back-door of the PFR process. The Commission should avoid such a trap.

D. The Content And Use Of Loss Reports

SBC asked the Commission to clarify that Loss Reports could include indicators or codes "reveal[ing] that the customer's service was disconnected as a result of the carrier change

[8] MCI at 5-8; Qwest at 10-11.

order."[10] In support of its argument, SBC noted that the "same type of code is transmitted to IXCs as a part of the CARE transaction and is available to [competitive LECs] on a disconnect report."[11]

Only MCI comments on this issue and they oppose SBC's position and analysis.[12] Why MCI takes the position it does is nothing less than amazing, since MCI has been the recipient of such reports -- with explanatory disconnection codes -- for years and has never complained. In particular, it never raised a claim that when it was being advised that one of its customers left "for competitive reasons" that it should not have been told that because the information was proprietary to other carriers under Section 222 of the Telecommunications Act of 1996.

SBC is correct that the "information" under discussion has been provided to IXCs for a long time. And, while U S WEST has no personal knowledge of CLECs receiving such reports, CLECs that also provide toll service[13] could probably secure such reports if they participate in the CARE process.[14] The information stems from the Transaction Code Status Indicators ("TCSI")

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[9] MCI at 6.

[10] SBC PFR/PFC at 14.

[11] Id.

[12] MCI at 15-18.

[13] A CLEC that provides only local exchange service will know why a customer leaves it because the customer will call to cancel the service, providing the carrier with a reason for the loss. It seems that only a CLEC that also provides intraLATA or interLATA toll (thus subject to changes in carrier through carrier change submissions) might be interested in a CARE-generated Loss Report. And even then to qualify for such a report, the CLEC would have to have its own Carrier Identification Code ("CIC").

[14] One of MCI's "objections" to the Loss Reports discussed by SBC is that not all carriers will get them, since not all carriers support or benefit from the CARE processes or the exchange of information. MCI at 17. MCI, however, does support CARE and one wonders what its standing is to lodge objections of those who do not. Furthermore, carriers should not be penalized from

in the CARE reports, which -- in the Series 22XX -- provides codes that indicate why a customer has left a carrier (e.g., disconnection due to moves, to competition, to nonpayment, etc.). In that 22XX series, there are about 15 codes (at least there are about 15 that U S WEST supports), eight of which carry information suggesting or allowing the implication that the loss was due to competition. (Those codes are identified in an Attachment to this filing and are herein incorporated by this reference.) MCI's assertion, then, that "[t]he only information IXCs are provided by the ILECs is disconnect and connect information"[15] may be correct in that the information pertains to "disconnection," but given the context in which the simplistic statement was made the remark is incredibly understated and misleading to the reader.

The information at issue is not being used, as the Commission was concerned about, to intervene in the carrier change process prior to the culmination of that process. That is, the information is not being used to convince a customer not to leave the incumbent carrier prior to the customer "loss." Thus, despite MCI's assertion, there is nothing "real time" about the release or use of the information.[16] The customer has already left the carrier and the codes -- not specifying any information about the identify of the carrier to whom the customer went -- act as sound managerial information on which to base future business decisions, including those involving which customers to contact in a win-back context.

Contrary to MCI's assertion, just as IXCs who have received these reports for years have not been advised of the carrier to whom the customer went, the LEC is also not favored with

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enjoying the benefits associated with certain benign industry information sharing practices simply because not all of the individual companies in the industry chose to participate.

[15] Id. at 17 n.36.

[16] See id. at 17 suggesting that LECs enjoy real-time access to the information under discussion.

such carrier-specific information.[17] While the Wholesale part of the LEC might be aware of the specific identify of both the winning and losing IXCs and LECs, the Loss Reports to the losing carriers -- including the LECs -- do not identify any carrier by name.

Because there is no carrier identification, the information conveyed cannot be deemed "proprietary" to a particular carrier. Not being based on **proprietary** carrier information, then, Section 222(b) is not implicated.[18] Even the most aggressive of IXC advocates have conceded in contractual language that carrier-specific data commingled in the aggregate of all IXCs, and which is no longer identifiable to a particular carrier, is not proprietary to a specific carrier. Undoubtedly, for this reason, the provision of this information since divestiture and its use for win-back strategies and activities has not been challenged as inappropriate.

Finally, the general nature of the information conveyed -- rather than referencing any particular carrier -- renders the information important to receiving carriers as valuable "running the business matter," i.e., how much churn are they encountering due to moves, due to competitive losses, etc. This is true whether the receiving carrier is an IXC, a CLEC or a LEC.

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[17] MCI's statement that LECs are in a position to know the "identify of which carrier the customer left and which carrier the customer selected" (id.), while true as a general corporate matter is not true with respect to the Retail operations and the contents of the Loss Reports. Thus, MCI's assertion that ILECs competing with LECs are competitively disadvantaged "because only [LECs] can direct their sales pitch compared to specifically identified carriers" (id. at 18) is simply incorrect.

[18] See id. at 16, citing to the requirement that the information be proprietary, as stated in the Slamming Order at ¶ 16.

III. CONCLUSION

The Commission should reconsider its Slamming Order along the lines proposed by U S WEST and articulated in our comments.

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ATTACHMENT

U S WEST supports 15 loss Transaction Code Status Indicators ("TCSI") codes in the 22XX series, 8 of which could convey to the recipient carrier that a customer was lost to competition. Those codes are:

2202 - Service Disconnect due to customer moving - if they do not receive a connect code they know the end user changed PIC when they issued their move order

2203 - We send this TCSI when an end user calls U S WEST business office and changes their PIC

2206 - This TCSI is sent if a Carrier or the CBSC on behalf of a Carrier submits a PIC change by using the RSS online system

2209 - THIS TCSI is sent if an end user reaches the CBSC - not the business office and the CBSC issues an online PIC change for the customer.

2211 - This TCSI is sent if U S WEST receives a mechanical order to change the PIC

2229 - This TCSI tells the Carrier that they lost the customer because the customer called U S WEST and claimed that their PIC was changed without their authorization - PIC dispute

2231 - Tells the PIC'd to carrier that U S WEST lost the end user to a new Local Service Provider ("LSP") and the number has been ported to the new LSP. The IXC should assume they lost the end user unless they get a connect code from the new LSP.

2233 - Tells the PIC'd to carrier that U S WEST lost the end user to a new non facility based LSP (reseller). The IXC should assume they lost the end user unless they get a connect code from the new LSP.

The other 7 codes in the 22XX series indicate customer losses due to things such as dial tone disconnect due to moves or unspecified reasons, a change in billing responsibility, a cancellation of service, etc.

CERTIFICATE OF SERVICE

I, Rebecca Ward, do hereby certify that on the 8th day of July, 1999, I have caused a copy of the foregoing **REPLIES OF U S WEST COMMUNICATIONS, INC. TO COMMENTS IN SUPPORT/OPPOSITION TO PETITIONS FOR RECONSIDERATION AND/OR CLARIFICATION** to be served, via first class United States Mail, postage prepaid, upon the persons listed on the attached service list.

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